

In The Matter Of:
Hodell-Natco Industries, et al. v.
SAP America, Inc., et al.

Marcia Weissman
July 19, 2012

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Original File 07.19.12 Hodell-Natco Industries et al. v. SAP America Inc. et al. Witness Marcia
Weissman.txt
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IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

HODELL-NATCO INDUSTRIES,
INC.,

Plaintiff,

vs.

SAP AMERICA, INC., SAP AG,
LSI-LOWERY SYSTEMS, INC.,
THE IBIS GROUP, INC.,

Defendants.

STATE OF ILLINOIS)
) SS.
COUNTY OF COOK)

No. 1:08-cv-02755

The videotaped deposition of MARCIA WEISSMAN
taken before April M. Metzler, Certified Shorthand
Reporter and Certified Realtime Reporter, at 191 North
Wacker Drive, Suite 3700, Chicago, Illinois, commencing
at 9:09 a.m. on the 19th day of July, A.D., 2012.

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1 how you were paid?

2 A. Yes.

3 Q. Okay. At some point did those paychecks
4 paid -- did they start being issued by an LSi check, for
5 instance?

6 A. Yes, yes.

7 Q. Do you remember when that occurred?

8 A. Not really. I'm guessing that it would be
9 around 2004, but I don't really know for sure.

10 Q. What was your actual job title, while you
11 worked -- well, let me step back.

12 I'm going to refer to the company just as LSi,
13 unless there's some reason that I want to separate LSi
14 and IBiS; is that fair?

15 A. Sure.

16 Q. Okay. What was your actual job title while
17 you were with LSi?

18 A. Implementation consultant.

19 Q. And what did you do exactly in that role?

20 A. I did many things. I was generally -- I would
21 start working with a particular customer after they had
22 purchased the software package, and I would participate
23 in various meetings and consultations with them to
24 determine their business needs and how the program could
25 meet those needs, if any modifications were needed to

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1 the program or if we would recommend changes in their
2 business procedures or anything like that, so that the
3 program could best meet their needs.

4 If modifications were needed, I would
5 generally write up specifications for those
6 modifications, so that the programmers could implement
7 that.

8 Further along into the project, I would do
9 training with various people for the customer, sometimes
10 on site at their location. Sometimes they would come to
11 our office. Sometimes it was by web meeting, over the
12 phone, and the internet. And then I would generally be
13 on site at their location when they would go-live on a
14 program, and I would be helping, as needed, running from
15 one person to another and, you know, just generally
16 assisting in getting started using the program.

17 Q. All right. Is it fair to say that while you
18 worked for LSi your role was a post-sale role?

19 A. Absolutely.

20 Q. Okay. And you weren't -- you were not
21 involved in any pre-sale activities, correct?

22 A. Very rarely. There were some occasions when I
23 did demonstrations along with the salesperson, but that
24 was very rare.

25 Q. Do you have any recollection of being

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1 possible solution?

2 A. I think it would be possible with -- with
3 understanding of the volume of data that would be
4 entered and, you know, the physical situation in terms
5 of the hardware, physical setup and so on.

6 Q. Is it possible to take a large volume -- and I
7 don't mean with respect just to Business One itself.
8 But is it possible for any software to take a client
9 that has a large number of users, large volume, and sort
10 of supersize the hardware to improve performance?

11 A. Absolutely.

12 Q. Let's talk about your involvement with Hodell.
13 When do you first recall being involved with Hodell?

14 A. Again, this is just a guess. I would think it
15 would be sometime in 2005.

16 Q. Do you remember if the deal between LSi and
17 Hodell had already been formalized, before you got
18 involved?

19 A. Oh, yes, absolutely.

20 Q. What was your role with respect to the Hodell
21 project?

22 A. What I had talked about earlier,
23 implementation. I was there on several occasions with
24 meetings with the management people, both management of
25 the company as a whole, in Cleveland.

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1 They also brought in branch managers from
2 their other offices, and we had meetings over the course
3 of several months of just planning and going through the
4 different parts of the program and how it could be
5 utilized in their different branches and who would be
6 doing what and, you know, what other modifications might
7 be needed and so on.

8 Q. I'll just represent to you -- because you
9 probably don't have a specific recollection of it --
10 that the evidence in this case has been that Hodell went
11 live on the SAP solution with the InFlight add-on and
12 the Radio Beacon add-on in March of 2007. Do you recall
13 that that's when that happened?

14 A. That seems very likely.

15 Q. Okay. Were you involved in that go-live?

16 A. Oh, yes.

17 Q. Were you there at Hodell when they went live?

18 A. I was in Cleveland, yes. We also had other
19 people at other Hodell offices around the country for
20 that go-live period.

21 Q. All right. So your involvement on the project
22 began in 2005, right?

23 A. Approximately, yeah.

24 Q. And at that point in time was the work LSi was
25 doing, was that programming the InFlight code?

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1 A. That was primarily what -- what they were
2 working on, yes.

3 Q. All right. What role did you have
4 specifically with respect to the InFlight development?

5 A. None whatsoever in the initial planning or --
6 and certainly none in coding. I don't do that at all.

7 As I was working more with Hodell, I was able
8 to bring back their input, in terms of features that
9 they wanted or changes that they wanted or things that
10 they didn't like or whatever. I was able to be, kind
11 of, the go-between, in terms of communicating what they
12 were saying to the programmers and developers at IBiS
13 and LSi.

14 And then I also was very involved in testing
15 the product on our in-house systems and, you know, going
16 through over a period of many, many months just working
17 with it and running tests on it and communicating with
18 the programmers what the problems were, and then they
19 would fix it. I would test again until the problems
20 were solved.

21 And then I also did the documentation report.
22 I wrote user manuals for the InFlight products.

23 Q. Okay. Let's talk -- I want to come back to
24 the testing topic, but -- you mentioned that you had
25 been on site at Hodell on a number of different

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1 occasions?

2 A. Yes.

3 Q. How many times were you actually on site --

4 A. I have no idea.

5 Q. -- approximately, if you know?

6 A. I -- I -- I couldn't tell you. I mean, it was
7 over a period of two years. I was there sometimes a
8 week at a time, sometimes a few days at a time. My
9 feeling was for a good part of that time it was like
10 50 percent of my work time that I was there rather than
11 anyplace else.

12 Q. And was part of what you were doing, when you
13 were at Hodell, trying to figure out what functionality
14 they needed in the InFlight program?

15 A. Yes.

16 Q. Okay. And then you'd go back and you'd tell
17 your programmers at LSi what they needed to build for
18 Hodell?

19 A. Yes.

20 Q. It didn't necessarily have anything to do with
21 the base SAP package, right?

22 A. Well, we could not change in the base SAP, but
23 we were working out functional solutions using the base
24 SAP program. In other words, what options do you want
25 to use and, you know, what will be the step-by-step

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1 procedures and so on.

2 Q. Okay. When you were visiting with Hodell
3 talking about the features that they wanted, the
4 functionality that they wanted, you were doing that on
5 behalf of LSi, correct?

6 A. Yes.

7 Q. You weren't representing yourself as being an
8 employee of SAP, correct?

9 A. Absolutely not.

10 Q. Did you ever have the sense that anybody at
11 Hodell was confused or thought that you might be
12 employed by SAP?

13 A. No.

14 Q. You mentioned you were involved with testing
15 the product on your in-house system. By the product,
16 you mean the InFlight code?

17 A. Yes.

18 Q. How did the testing on the in-house system
19 work?

20 A. Basically, I would just try to perform the
21 various functions that a user would do in the course of
22 their business, using it as much as possible the way
23 Hodell would want to do it and note any problems that
24 would occur, anything that didn't work right.

25 In some of the areas it had to do with, you

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1 know, how things get posted to the general ledger, the
2 math, make sure the arithmetic all came out right. I
3 did a lot of work with that.

4 Some of the parts of InFlight were pretty
5 complex in terms of utilizing different calculations to
6 do things and so on and so on. I tried to do as many
7 different variations as possible.

8 Q. Were you running InFlight by itself or was it
9 running on a system with Business One?

10 A. It is not possible to run it by itself. It
11 was always in conjunction with Business One.

12 Q. So it doesn't by itself do anything? It needs
13 Business One --

14 A. It can't even start up by itself.

15 Q. So, what, you had a machine at the LSi
16 location that had Business One on it -- with the
17 InFlight Code with Business One on it?

18 A. Yes.

19 Q. Did you experience any performance problems,
20 with respect to the InFlight code running with SAP
21 Business One, during your testing?

22 A. Sometimes. That was one of the things that I
23 would report and try to have improved.

24 Q. Was this fairly typical in the development of
25 an add-on?

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1 they were entering data or while a document was being
2 saved or something like that. We were aware that that
3 was not as fast as people would like it to be.

4 Q. Did you make Hodell aware of that as well?

5 A. I think it was more that Hodell made us aware
6 of it.

7 Q. Prior to go-live was the -- strike that.

8 At some point prior to go-live, the solution
9 was installed in Hodell's machines; is that correct?

10 A. Considerably before, yes.

11 Q. And testing was done at Hodell?

12 A. Testing was done. It was -- I don't think it
13 was tested as much as we requested that it be tested.

14 Q. When did testing begin, if you recall?

15 A. It was several months before go-live.

16 Q. Did you have a personal role with respect to
17 testing the solution at Hodell before go-live?

18 A. Not really directly. I did training and I was
19 available by phone when they were doing the testing.
20 And they would call and say, There's a problem, or
21 something like that. We were able to connect into their
22 system and work on their system from our office as well.
23 And so, you know, if they said there was a problem, we
24 would try to duplicate that problem and so on.

25 But I didn't directly conduct the tests. That

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1 was supposed to be primarily done by the department
2 heads and branch managers. They were supposed to be in
3 charge of the testing.

4 Q. The Hodell department heads?

5 A. Yes.

6 Q. And branch managers?

7 A. Yes.

8 Q. Was there some person from LSi that was
9 primarily in charge of testing or coordinating testing
10 with Hodell?

11 A. I wouldn't say that it was specifically that.
12 I mean, I was the lead implementation consultant, so I
13 was the main contact person.

14 Q. You consider yourself knowledgeable as to the
15 testing that occurred at Hodell, prior to go-live?

16 A. Somewhat, but not fully.

17 Q. And is that simply because you weren't on site
18 while testing was being run?

19 A. Yes.

20 Q. And the testing was to be run by whom?

21 A. Well, everyone was supposed to be involved
22 with the testing, all of the employees at Hodell who
23 were going to be using the system were supposed to be
24 involved in -- involved with the testing.

25 And they would have times that they designated

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1 as stress tests, which was supposed to mean that
2 everybody was supposed to use the system all at the same
3 time and work on it for maybe an hour all at once, so
4 that we could see the results of that much input.

5 However, as it was conveyed to me, it never
6 took an hour. It was never really everybody all at the
7 same time. It was most of the people would go in.
8 They'd open one document, make one entry, close it, and
9 that would be it. So even though they said they were
10 doing stress testing, I don't think that anything that
11 you could describe as stress testing was really done.

12 Q. Okay. So what you described here and used the
13 term stress testing are supposed to be tests of about an
14 hour where you say everybody from Hodell was supposed to
15 get on the system and load the system, right?

16 A. That was the intent.

17 Q. How was that expressed to Hodell? How did
18 they understand that that was what they were supposed to
19 do?

20 A. I -- I can't tell you specifically who said
21 what. And we had various conversations with -- with
22 people at Hodell. The main person at that point who was
23 leading from the Hodell side was Kevin Reidl, and he
24 was -- he was directing that testing.

25 Q. And was it you, on behalf of LSi, that was

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1 speaking with Kevin and telling Kevin that -- what
2 needed to be done for stress testing, or was there
3 somebody else from LSi that was doing that?

4 A. I did some. There was also Jon Woodrum, who
5 was my supervisor, he was closely involved with it.
6 Sometimes Joe would -- would be involved.

7 Q. And what do you personally recall telling
8 Kevin that Hodell needed to do with respect to stress
9 testing?

10 A. That we needed to have everyone working and
11 everyone doing a representative amount of what they
12 normally did.

13 For instance, it was very common for them to
14 have sales orders of 300 lines or more, and we wanted
15 them to do that kind of thing during this testing
16 process. But -- and, again, I wasn't there. I didn't
17 see it. But my understanding was that really they only
18 did maybe one or two lines and then went back to their
19 regular work.

20 Because there was a lot of pressure on the
21 people at Hodell -- it's a very high-volume business, a
22 very time-sensitive business, and all of the people
23 there were -- and many of them expressed this to me --
24 that they couldn't take an hour away from their normal
25 work, because deliveries wouldn't be made, customers

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1 wouldn't be happy. So, you know, they had -- you know,
2 they did a little bit, but mostly they just had to go
3 back to their regular daily routine.

4 Q. When you were speaking with Kevin, or others
5 at Hodell about the stress testing, was the plan that
6 Hodell would just do this on its own and report to you
7 what it found? Or was the plan for somebody from LSi to
8 go on site at Hodell and be a part of this and supervise
9 these tests?

10 A. We were not going to be supervising the tests.

11 Q. And did Hodell know that?

12 A. Yeah.

13 Q. When did you personally become aware that
14 Hodell had not done the testing that you asked Hodell to
15 do?

16 A. I think we were in pretty frequent
17 communication and talked about it.

18 Q. Was this before go-live that you --

19 A. Absolutely, yes.

20 Q. Okay. So before go-live you were aware
21 personally that Hodell had not done the level of testing
22 that you and others at LSi had requested, correct?

23 A. I was aware that they hadn't done the level
24 that we requested. I don't think I was aware of how
25 much less they had done than -- than they really did.

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1 of Dan Kraus before, but I'm not sure.

2 Q. I'll represent to you that Udi Ziv was the
3 head of the development team for SAP Business One.

4 A. Okay.

5 Q. And that no one reported -- he didn't report
6 to anyone except straight to the board of directors at
7 SAP.

8 A. Okay.

9 Q. Okay. If you see in the middle e-mail of
10 Exhibit 69 on page 3, he's writing to these other folks
11 at SAP stating that, Someone has sold to the wrong
12 customer, which is way above any sane B1 sweet spot, 120
13 users, three exclamation points. Do you see that?

14 A. I do see that, yes.

15 Q. And there isn't anyone from your organization
16 copied on that e-mail?

17 A. Oh, I guess not. Dan Lowery is the subject,
18 not the copy, yes.

19 Q. Were you made aware at any time around
20 April 12th, 2007 that Mr. Ziv had reached the conclusion
21 that Hodell-Natco was way above any sane sweet spot for
22 SAP Business One, based solely upon them having sold 120
23 user licenses?

24 MR. STAR: Objection to form and mischaracterizes
25 his testimony, mischaracterizes the evidence of record,

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1 lacks foundation. You can answer, if you understand.

2 BY THE WITNESS:

3 A. The answer is I was not made aware of this in
4 any way.

5 Q. The information being communicated by Mr. Ziv
6 in this particular e-mail, is that information you would
7 have liked to have been aware of at this time?

8 A. I don't know that it would have helped me, if
9 I was aware of it after the fact. You know, I was an
10 employee. I was not making any kind of decisions
11 whatsoever.

12 Q. Would it have been important to you to know
13 that folks at SAP had determined on or around this date
14 that there was no way Business One was going to work for
15 Hodel-Natco?

16 MR. STAR: Objection.

17 BY MR. LAMBERT:

18 Q. It needed to move to a different platform.

19 MR. STAR: Objection to form.

20 BY THE WITNESS:

21 A. I --- I would certainly have been interested to
22 know that. But, again, I could only do what I was
23 directed to do by my employers.

24 Q. Well, wouldn't -- why would that have been
25 information that you would have liked to have known?